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APPENDIX II

[Vide item IV, page 57 supra]

L.A. BILL No. 8 OF 1947.

(As passed by the Assembly.)

A Bill to provide for preventive detention, imposition of collective fines, control of meetings and processions, control of essential services and certain other purposes.

WHEREAS, for the maintenance of public safety and to prevent and put down disorders involving menace to the peace and tranquillity of the Province, it is necessary to provide for preventive detention, imposition of collective fines, control of meetings and processions, control of services essential to the life of the community and certain other purposes; It is hereby enacted as follows :—

Short title, extent, commencement and duration.

1. (1) This Act may be called the Madras Maintenance of Public Order Act, 1947.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

(4) It shall remain in force for a period of one year; but the Provincial Government may, from time to time by notification in the *Fort St. George Gazette*, extend the continuance of this Act for a further period or periods not exceeding one year in the aggregate, if in their opinion it is expedient so to do. Upon the expiry of this Act, the provisions of section 8 of the Madras General Clauses Act, 1891, shall apply as if this Act had then been repealed by a Madras Act.

Madras Act I of 1891.

Power to make orders restricting the movements or actions of or detaining certain persons.

2. (1) The Provincial Government, if satisfied with respect to any particular person that he is acting or about to act in any manner prejudicial to the public safety or the maintenance of public order and with a view to preventing him, it is necessary so to do, may make an order—

(*a*) directing that he be detained;

(*b*) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or person as may be specified therein, he shall not be in any such area or place in the Province as may be specified in the order;

(*c*) requiring him to reside or remain in such place or within such area in the Province as may be specified in the order and if he is not already there to proceed to that place or area within such time as may be specified in the order;

(*d*) requiring him to notify his movements in such manner, at such times and to such authority or person, as may be specified in the order;

(*e*) prohibiting him from being out of doors between such hours as may be specified in the order except under the authority of a written permit granted by such authority or person as may be specified therein;

(*f*) prohibiting him from travelling except in accordance with the permission given to him by such authority or person as may be specified in the order;

(*g*) imposing upon him such restrictions as may be specified in the order in respect of his employment or business, in respect of his association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinions;

(*h*) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order;

(*i*) for such incidental and supplementary matters as may be necessary for the purpose of giving effect to any order under this sub-section.

(2) When any order is made under sub-section (1) by an officer or authority empowered under section 15, that officer or authority shall forthwith report the fact to the Provincial Government together with the grounds

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on which the order has been made and such other particulars as, in the opinion of such officer or authority, have a bearing on the necessity for or expediency of the order.

(3) An order made under sub-section (1) may require the person in respect of whom it is made to enter into a bond, with or without sureties, for the due performance of, or as an alternative to the enforcement of, such restrictions or conditions in the order as may be specified in the order.

(4) If any person is in any area or place in contravention of an order made under sub-section (1), or fails to leave any area or place in accordance with the requirements of such an order, then, without prejudice to the provisions of sub-section (6), he may be removed from such area or place by any police officer or by any person acting on behalf of the Provincial Government.

(5) So long as there is in force in respect of any person such an order as aforesaid directing that he be detained he shall be liable to be removed to and detained in such place and under such conditions, including conditions as to maintenance, discipline and the punishment of offences and breaches of discipline, as the Provincial Government may, from time to time by general or special order, specify.

(6) If the Provincial Government have reason to believe that a person in respect of whom such an order as aforesaid has been made directing that he be detained has absconded or is concealing himself so that the order cannot be executed, they may—

(*a*) make a report in writing of the fact to a Presidency Magistrate or Magistrate of the first class, as the case may be, having jursdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898, shall apply, in respect of the said person and his property, as if the order directing that he be detained were a warrant issued by the Magistrate; Central Act V of 1898.

(*b*) by order notified in the *Fort St. George Gazette*, and published in such other manner as they think fit, direct the said person to appear before such officer, at such place, and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith, and that he had, within the period specified in the order, informed the officer of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(7) If any person contravenes any order made under this section, other than an order of the nature referred to in clause (*b*) of sub-section (6), he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both, and if such person has entered into a bond in pursuance of the provisions of sub-section (3), his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid.

Grounds of order of detention to be disclosed to person affected and to be placed before the Advisory Council.

3. (1) Where an order in respect of any person is made by the Provincial Government under sub-section (1) of section 2 or where any such order is made by any officer or authority subordinate to them, after receipt of the report specified in sub-section (2) of that section, the Provincial Government shall communicate to the person affected by the order, so far as such communication can be made without disclosing the facts which they consider it would be against the public interest to disclose, the grounds on which the order has been made against him and such other particulars as are in their opinion sufficient to enable him to make, if he wishes, a representation against the order; and such person may, within such

time as may be specified by the Provincial Government, make a representation in writing to them against the order and it shall be the duty of the Provincial Government to inform such person of his right of making such representation and to afford him opportunity of doing so.

(2) After the receipt of the representation referred to in sub-section (1) or in case no representation is received, after the expiry of the time fixed therefor, the Provincial Government shall place before the Advisory Council constituted under sub-section (3), the grounds on which the order has been made and in case such order has been made by an authority or officer subordinate to them, the report made by him under sub-section (2) of section 2 and the representation if any made by the person concerned.

(3) The Provincial Government shall constitute an Advisory Council whenever necessary and it shall consist of not less than three members one of whom shall be its Chairman. The Chairman and the members of the Council shall be appointed by the Provincial Government.

(4) The Advisory Council shall, after considering the materials placed before it and if necessary after calling for such further information from the Provincial Government or from the person concerned, as it may deem necessary, submit its report to the Provincial Government.

(5) After considering the report of the Advisory Council, the Provincial Government may confirm, modify or cancel the order made under sub-section (1) of section 2.

Duration of orders made under section 2.

4. (1) No order made under section 2 shall be in force for more than six months from the date on which it is confirmed or modified under sub-section (5) of section 3; but the Provincial Government may at any time before the expiry of that period cancel the order.

(2) If in the opinion of the Provincial Government it is necessary or expedient so to do, they may at any time before the expiry of the period of six months aforesaid and after giving an opportunity to the person concerned to make any representation in writing which he may desire to make and after referring the matter to the Advisory Council and considering its report, direct that the order shall continue in force and the order as so extended shall continue for a further period of six months from the date on which but for such direction it would have ceased to be in force and thereafter if and so often as it is again extended by a further similar direction made in the same manner.

(3) The revocation of any order made under sub-section (1) of section 2 shall not prevent the making under that sub-section of a fresh order to the same effect as the order revoked.

Imposition of collective fines.

5. (1) If it appears to the Provincial Government that the inhabitants of any area are concerned in, or abetting the commission of, offences prejudicially affecting the public safety or the maintenance of public order, or the maintenance of supplies and services essential to the life of the community or are harbouring persons concerned in the commission of such offences, or are failing to render all the assistance in their power to discover or apprehend the offender or offenders, or are suppressing material evidence of the commission of such offences, the Provincial Government may, by notification in the *Fort St. George Gazette*, and by publication in such other manner as they think fit, impose a collective fine on the inhabitants of that area :

Provided that an imposition of a collective fine by any officer or authority to whom the power may have been delegated under this Act may be made by publication of the order imposing the fine in such manner as such officer or authority may consider best calculated to bring the order to the notice of the inhabitants of the area concerned.

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(2) The Provincial Government or any officer empowered by them in this behalf may, by general or special order, exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(3) The Chief Presidency Magistrate or the District Magistrate, as the case may be. after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the Magistrate's judgment of the respective means of such inhabitants.

(4) In any such apportionment, the Magistrate may direct a joint or undivided family as such to pay such portion of the fine as may be assigned to it.

(5) The portion of such fine payable by any person (including a joint or undivided family) may be recovered—

(*a*) in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of fines imposed by a Court, as if such portion were a fine imposed by the Magistrate acting as a Court : Central Act V of 1898.

Provided that the Provincial Government may, in lieu of the rules referred to in sub-section (2) of section 386 of the Code of Criminal Procedure, 1898, make rules under this Act regulating the manner in which warrants under clause (*a*) of sub-section (1) of the said section of the said Code are to be executed, and for the summary determination of any claims made by any person other than the person liable to pay the fine in respect of any property attached in execution of the warrant ; or Central Act V of 1898.

(*b*) as arrears of land revenue.

Control of meetings, processions, etc.

6. (1) The Provincial Government may, for the purpose of securing public safety, or the maintenance of public order or the maintenance of supplies and services essential to the life of the community, by general or special order, prohibit, restrict or impose conditions upon the holding of processions, meetings, or assemblies by a class of persons or organizations whose activities, in the opinion of the Provincial Government, are subversive of law and order.

(2) If any person contravenes any order issued under the section, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Control of camps, drill or parades.

7. ((1) The Provincial Government may, in the interests of public security or maintenance of public order, by order, prohibit or impose such conditions as may be necessary on, the holding of camps or performance of drill or parade with or without arms, or any article, weapon or implement capable of being used as arms by any class of persons or organizations whose activities are in the opinion of the Provincial Government subversive of law and order.

(2) Any contravention of an order made under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Control of essential services.

8. (1) If the Provincial Government are of opinion that any employment under the Provincial Government or any employment or class of employment connected with matters falling within Lists II and III of the Seventh Schedule to the Government of India Act, 1935 (Provincial and Concurrent Legislative Lists), is essential for the purpose of securing public safety, the maintenance of public order or the maintenance of supplies and services essential to the life of the community, they may, after notifying the employment or class of employment in the *Fort St. George Gazette*, and publishing it in such other manner as they think fit, direct by general or special order that any person or persons engaged in such employment shall not depart out of such area or areas as may be specified in such order. 26, Geo. 5, Ch. 2.

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(2) An order made under sub-section (1) shall be published in such manner as the Provincial Government or officer or authority making the order may consider best calculated to bring it to the notice of the persons affected by the order.

(3) Any person engaged in any employment or class of employment notified under sub-section (1) who—

(a) disobeys any lawful order given to him in the course of such employment, or

(b) without reasonable excuse abandons such employment or absents himself from work, or

(c) departs from any area specified in an order under sub-section (1) without the consent of the authority making that order,

and any employer of a person engaged in an employment or class of employment notified under sub-section (1) who without reasonable cause—

(i) discontinues the employment of such person, or

(ii) by closing an establishment in which such person is engaged, causes the discontinuance of his employment,

shall be guilty of an offence under this section.

Explanation 1.—Abandonment of employment or absence from duty by any person merely for fear of molestation, intimidation or assault by any person or class of persons shall not constitute a reasonable excuse within the meaning of clause (b).

Explanation 2.—A person abandons his employment within the meaning of clause (b), who notwithstanding that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of his employer.

Explanation 3.—An employer discontinues the employment of his employee within the meaning of clause (c) (i), who notwithstanding that it is an express or implied term of the contract of employment that he might terminate the employment on giving notice to the employee of his intention to do so, terminates the employment without the previous consent of the employee.

(4) Any person found guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(5) If the person contravening any of the provisions of this section is a company or other body corporate, every director-in-charge, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

Power to impose censorship.

9. (1) The Provincial Government may, for the purpose of securing the public safety or the maintenance of public order, by order addressed to a printer, publisher or editor, or to printers, publishers and editors generally—

(a) require that all matter, or any matter relating to a particular subject or class of subjects, shall before being published in any document or class of documents, be submitted for scrutiny to an authority specified in the order;

Central Act XXIII of 1931.

(b) prohibit or regulate the making or publishing of any document or class of documents, or of any matter relating to a particular subject or class of subjects, or the use of any press, as defined in the Indian Press (Emergency Powers) Act, 1931.

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(2) If any person contravenes any order made under sub-section (1), then, without prejudice to any other proceedings which may be taken against such person, the Provincial Government may declare to be forfeited to His Majesty every copy of any document published or made in contravention of such order and any press, as defined in the Indian Press (Emergency Powers) Act, 1931, used in the making of such document. Central Act XXIII of 1931.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Requisitioning of property.

10. (1) If in the opinion of the Provincial Government it is necessary or expedient so to do for securing public safety or the maintenance of public order, or the maintenance of supplies and services essential to the life of the community, they may, by order in writing, requisition any movable property and may make such further orders as appear to them to be necessary or expedient in connexion with the requisitioning.

(2) Where the Provincial Government have requisitioned any property under sub-section (1), they may use or deal with the property in such manner as may appear to them to be expedient.

(3) Whenever, in pursuance of sub-section (1), the Provincial Government requisition any property, the owner thereof shall be paid such compensation as they may determine:

Provided that, where immediately before the requisition, the property was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined by the Provincial Government as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement in such manner as an arbitrator appointed by the Provincial Government in this behalf may decide to be just.

(4) The Provincial Government may, with a view to requisitioning any property under sub-section (1) or determining the compensation payable under sub-section (3), by order—

(*a*) require any person to furnish to such authority, as may be specified in the order, such information in his possession relating to the property as may be so specified;

(*b*) direct that the owner or person in possession of the property shall not, without the permission of the Provincial Government, dispose of it or remove it from the premises in which it is kept till the expiry of such period as may be specified in the order.

(5) Without prejudice to any powers otherwise conferred by this section, any person authorized in this behalf by the Provincial Government may enter any premises and inspect such premises and any property therein or thereon for the purpose of determining whether, and if so, in what manner, an order under this section should be made in relation to such property or with a view to securing compliance with any order made under this section.

(6) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Powers to require the assistance of certain persons.

11. (1) Any officer of Government authorized in this behalf by general or special order of the Provincial Government may, within such area as may be specified in the order, require any male person in that area to assist in the maintenance or restoration of law and order or in the protection of property for such period and in such manner as the officer may direct.

(2) If any person fails to comply with any lawful direction given to him under sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Powers of search.

12. (1) The Provincial Government may, by general or special order, empower any officer to search any place, stop and search any vessel, vehicle or animal, and seize anything which he has reason to believe has been, is being, or is about to be, used for any purpose prejudicial to the public safety or the maintenance of public order.

(2) Any officer empowered under sub-section (1) shall forthwith report to the Provincial Government in detail, any seizure made by him and pending the receipt of their orders, may detain in custody anything so seized or take such other step for its safe custody as he may think proper.

(3) The Provincial Government may make such order as they think fit for the disposal of anything seized under sub-section (1), by destruction, confiscation or in such other manner as they may direct.

(4) An officer empowered under sub-section (1) may, subject to the control of the Provincial Government, authorize any officer subordinate to him to exercise any of the powers referred to in sub-section (1).

Explanation.—For the purpose of this section, 'place' includes a house, building, shed, enclosure and tent.

Power to arrest without warrant.

13. Any Police officer may arrest without warrant any person who is reasonably suspected of having committed an offence punishable under this Act.

Attempts to contravene provisions of the Act.

14. Any person who attempts to contravene, or abets, or attempts to abet, or does any act preparatory to a contravention of, any of the provisions of this Act or of any order made thereunder, shall be deemed to have contravened that provision or, as the case may be, that order.

Delegation of powers and duties of Provincial Government.

15. The Provincial Government may, by order, direct that any power or duty which is conferred or imposed on them shall, in such circumstances and under such conditions, if any, as may be specified in that direction, be exercised or discharged by any officer or authority subordinate to the Provincial Government.

Savings as to orders.

16. (1) No order made in exercise of any power conferred by or under this Act or deemed to have been made under this Act by virtue of section 19 shall be called in question in any Court.

Madras Ordinance I of 1947.

(2) If at the commencement of this Act, there is pending in any Court any proceeding in which the validity of any order made under section 2 of the Madras Maintenance of Public Order Ordinance, 1947, is called in question, such proceeding shall not be continued and shall be discharged.

Central Act I of 1872.

(3) Where any such order as is referred to in sub-section (1) purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by such authority.

Protection of action taken under the Act.

17. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

(2) No suit, or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act.

18. The provisions of this Act shall be in addition to and not in derogation of any other Act, Ordinance or Regulation for the time being in force.

Application of other laws not barred.

Madras Ordinance I of 1947.

19. (1) The Madras Maintenance of Public Order Ordinance, 1947, is hereby repealed.

Repeal and saving.

(2) All orders made under the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to have been made, and shall have effect as if they had been made, under this Act :

Provided that in respect of all orders made under sub-section (1) of section 2 of the said Ordinance and in force immediately before the commencement of this Act, the provisions of sub-section (2) of section 2 and section 3 of this Act shall, so far as may be, apply as if the orders were made under this Act.

TAMIL NADU LEGISLATIVE ASSEMBLY
TRUTH ALONE TRIUMPHS